

from and in addition to the tax previously discussed which was for old-age benefits. This tax is paid by employers and is not deducted from the employee's wages. The tax was at the rate of one per cent on the employer's total payroll between January 1, 1936, and December 31, 1936. It will be two per cent in 1937 and three per cent in 1938 and thereafter. This tax applies only to employers who on each of twenty days during the calendar year, each day being in a different week, employed eight or more persons. The money so collected is to be paid into the Treasury of the United States, where a fund known as "The Unemployment Trust Fund" has been created. Under the provisions of this statute, the following employers are exempted: Agricultural labor, domestics, service performed as an officer or member of the crew of a vessel on the navigable waters of the United States, service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother, service performed in the employ of the United States Government, a state, county, municipality or political subdivision thereof, or of an instrumentality thereof, service performed in the employ of an organization operated exclusively for religious, charitable, etc., purposes, where no part of the net earnings inure to the benefit of any private individual. This federal act provides that if the state wherein the employer's place of business is situated adopts a suitable unemployment insurance plan, the employer may credit against his payment to the Bureau of Internal Revenue that amount of state tax which will not exceed 90 per cent of the federal tax. The purpose of this provision was designed to encourage the enactment of state laws patterned after the federal act. California has adopted such a law, which is known as the "California Unemployment Insurance Law." This is the third taxation statute under discussion here and will be considered in more detail below. Just how the funds collected by the Federal Government under this second taxing measure of the Social Security Act will be used for the benefit of unemployed individuals is not specifically set forth.

The federal act provides that those states which adopt their own plan, and which has been approved, will be granted federal money with which to finance the administration of the state plan.

CALIFORNIA UNEMPLOYMENT INSURANCE

The third related tax measure is entitled the "California Unemployment Insurance Law." This act was placed upon the statute books of this state on June 25, 1935, to conform to the general plan for unemployment insurance which was to be suggested to the several states by the federal act. Section 2 of the California act provides:

This act is enacted as a part of a national plan of unemployment reserves and social security and for the purpose of assisting in the stabilization of unemployment conditions. The imposition of the tax herein imposed upon California industry alone, without a corresponding tax be imposed upon all industry in the United States, would by the corresponding penalty upon California industry defeat the very purposes of this act set forth in Section 1.

It is further provided that the Act shall take effect only upon the adoption of legislation by the Federal Government providing for an unemployment insurance tax. The California act and the federal act are very similar. The same employers are taxed, to wit: those employing eight or more individuals on each of twenty days during the calendar year, each day being in a different week. Its benefits extend to the same employees, to wit: those employed by the employers last mentioned. Practically the same occupations are excluded. There is an important difference, however. The California plan is financed by both employers and employees. The employers' tax rate was fixed at .9 per cent for 1936, 1.8 per cent for 1937, and 2.7 per cent for 1938 and thereafter. These figures were chosen so as to enable the employer to take advantage of the credit allowance provided by the federal act. Consequently, a California employer being taxed under both the state and federal acts will not have to pay more than the percentage of his total payroll which is required by the federal act to satisfy both taxes. In addition, each employee is taxed .5 per cent of his salary

for 1936, 1 per cent of his salary for 1937, and at the same rate for his salary for 1938 and thereafter. The law provides that employees shall not pay more than one-half of the amount paid by the employers. As a result, the employee's tax for 1936 was reduced to .45 per cent from .5 per cent. As in the case of federal tax for old-age benefits, the employee's share of the tax is to be withheld from the employee's wages by the employer and paid by him. This money is to be paid into an "unemployment administration fund."

There has been considerable discussion as to the constitutionality of each of the three taxing measures which have been briefly discussed above. As yet, there has been no decision by the Supreme Court of the United States as to the constitutionality of the Social Security Act and the two taxing measures therein provided, namely, the old-age benefit provision and the unemployment insurance provision. However, the Supreme Court of the United States has passed upon the constitutionality of the New York Unemployment Insurance Law, which is similar to the Unemployment Insurance Act of California. The United States Supreme Court, with eight of the nine judges sitting, failed to reach a decision, as the judges were equally divided in their opinions as to the constitutionality of the New York law. Consequently, the decision of the New York Court of Appeals, which court held the Act constitutional, had to be affirmed. No written opinion was rendered by the United States Supreme Court.

The Supreme Court of the State of California recently had occasion to pass upon the validity of the California act. In the case of *Gillum vs. Johnson, Treasurer of the State of California, et al.*, 92 Cal. Dec. 647, the court concluded that the Act was constitutional and ordered the defendants, the State Treasurer, the State Controller, and the Unemployment Reserves Commission of the State to comply with the provisions of the Act.

Cases involving the constitutionality of the Social Security Act have been filed in several of the lower federal courts, and within the near future we may expect a decision from the Supreme Court of the United States in regard to the constitutionality of this federal act.

SPECIAL ARTICLES

HOBBY EXHIBIT: LOS ANGELES COUNTY MEDICAL ASSOCIATION

"Interests far from the operating theater and the diagnosis chart are indicated in the current hobby show of Los Angeles County Medical Association members.

"Held in the Association's lounge, 1925 Wilshire Boulevard, the show will be open daily from 9 a. m. to 9 p. m. during the week of January 11. In charge are Dr. E. Vincent Askey, secretary, and S. K. Cochems, executive secretary."

The above are the opening paragraphs of an article which appeared in the *Los Angeles Times*.

Members of the California Medical Association will be able to appreciate how generous was the response to the request to members that they place on exhibition their "hobby collections" and own handiwork for the pleasure of fellows, by perusing the list of exhibits which follows and noting their character, as evidenced in the illustrations. The first annual hobby show of the Los Angeles County Medical Association was voted a great success. List of exhibits follows:

Howard Andrews, M.D.

Acclaimed as one of the finest collections of firearms in United States history; a display of some two hundred weapons for holster, belt and pocket, including the so-called pepper-box weapons, flintlock pistols, heavy dragoon models, the early pocket revolvers, and an exceptionally fine display of Deringer pistols, including a duplicate of the one used in the assassination of Abraham Lincoln.

Stephen G. Seech, M.D.

A display of rare Austrian stamps—just a small portion of Doctor Seech's collection.

Paul K. Sellow, M.D.

Landscapes in oil. Illustrating that art is not the least of our members' attainments.



Fig. 1.—“Hobby Show”: Los Angeles County Medical Association. Photograph of southeast corner of Lounge Room in Headquarters Building.

Katherine M. Close, M.D.

A seascape in tempera—a lovely bit of color and composition.

Philip S. Doane, M.D.

A carved bench and various items of beautifully carved work.

Randall Hutchinson, M.D.

Bead work. Exceptional design and workmanship.

Arthur Bowen, M.D.

Hand-tooled leather, including an exceptionally beautiful desk set, book covers, card cases and boxes.

Joseph Savage, M.D.

Heads in charcoal that show the work of a true artist. Doctor Savage also had on display an exquisitely made ship model, illustrating his other hobby.

Paul Z. Hebert, M.D.

An unusual technique of pictorial art in glass.

Saul Robinson, M.D.

A series of oils that lend art value and dignity to the display.

Sven Lokrantz, M.D.

Two exhibits, entitled “Fantasia” and “Land of Make Believe,” in relief art. Two items in the display that created a great deal of attention and which illustrate many hours of painstaking work—truly exquisite offerings.

H. O. Barnes, M.D.

A display, through stamps and literature, illustrating that Vienna is but three-days away from Los Angeles.

F. H. Brandt, M.D.

The pencil is not a forgotten implement with which to create art. This is exemplified in the display of penciled landscapes by Doctor Brandt.

Salvatore R. Monaco, M.D.

Pottery of unusual design and beauty. A hobby that must be of great interest.

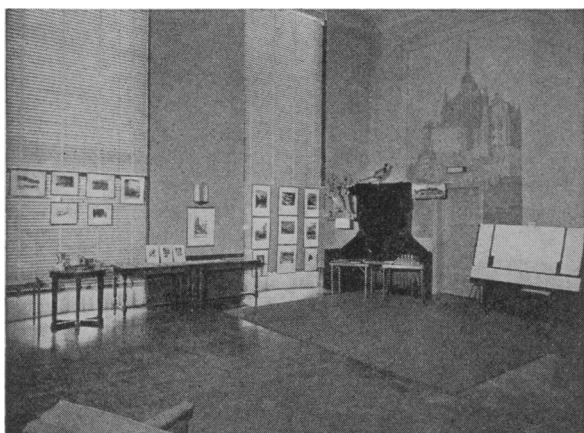


Fig. 2.—“Hobby Show”: Los Angeles County Medical Association. Photograph of northwest corner of Lounge Room in Headquarters Building.

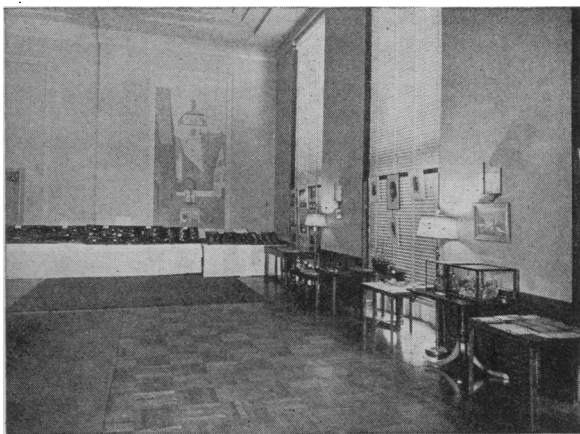


Fig. 3.—“Hobby Show”: Los Angeles County Medical Association. Photograph of southwest corner of Lounge Room in Headquarters Building.

Lloyd Mills, M.D.

Two concertos for piano and orchestra and a rhapsody for two pianos.

Lowell S. Goin, M.D.

Excerpts from “Mass, in E flat.” A composition by Doctor Goin.

George Laton, M.D.

Two compositions, entitled “Cavalliers” and “Prayer” (Masefield—Poems), Volume 1.

A. Marians, M.D.

Unusual specimens of colored photography.

Harold Lincoln Thompson, M.D.

The camera, as an instrument for art, has long been recognized. Doctor Thompson illustrates what may be done with this mechanism in the creation of true art. His landscapes, his portrait of a dog, and a study of Lincoln in the Lincoln Memorial at Washington, can only be appreciated by being seen.

Charles L. Lowman, M.D.

Unusual stamps from Doctor Lowman's extensive collection.

Harold Dewey Barnard, M.D.

Those who know Doctor Barnard might expect a large mounted rainbow trout, a big bear skin, an exceptionally fine deer head, and other items that delight the heart of the hunter, and these were all displayed.

Norval William Haddow, M.D.

Doctor Haddow's hobby is “climatology.” Graphs to illustrate his interest in this hobby were displayed.

Harold F. Whalman, M.D.

Motion pictures in colors were shown at stated intervals during the exhibit by Doctor Whalman, who proved that colored motion pictures are not things for only commercial enterprise.

E. R. Lambertson, M.D.

California landscapes in oil, with the color and sunshine and atmosphere that is California.

Cora Smith King, M.D.

A small portion of an extensive collection of pressed plant life of the West.

Robert H. Kennicott, M.D.

The oils of Doctor Kennicott brought to the “Hobby Show” some of the modern spirit in art in still life and figures.

Marcia A. Patrick, M.D.

An oil in brilliant colors and a California seascape, both adding dignity and interest to the display.

Clinton D. Hubbard, M.D.

We are sorry indeed that space forbids Doctor Hubbard displaying his complete collection of sea shells from the seven seas. It is hoped that next year the entire collection may be shown. To say the least, it is most interesting and unusual.

Hans von Briesen, M.D.

Whittling is what Doctor Briesen entitled his exhibit; an exhibit of four lithographs of old paintings, the frames and the lithographs processed to give an antique effect. These attracted a great deal of attention. Also several carved wooden figures, including a box of chessmen.

Jonas C. Kopelowitz, M.D.

Wood working is Doctor Kopelowitz' hobby. On display he has various items, including a specially constructed card-table top and a toy aeroplane.

George Dock, M.D.

A series of photographic enlargements of some of the greater bits of scenery in this country. One of exceptional interest is the picture of a terrace and garden at Sir William Osler's house, 13 Norham Gardens, Oxford, England.

James Reeve Dean, M.D.

Precision rifle shooting holds Doctor Dean's interest. On display were various telescopes and precision rifles, together with the ammunition used.

Cyril B. Courville, M.D.

Firearms of the Civil War. Collectors of firearms show much interest in this complete collection. Weapons used by both the North and South are on display.

Frank E. McCann, M.D.

Pictorial photography. Four landscapes and an exceptionally fine study of an Indian head.

Raymond L. Schulz, M.D.

Intricate surgical instruments made by himself.

Orrie Edw. Ghrist, M.D.

Doctor Ghrist enjoys travel to far places. Several years ago he made a trip to the South Sea Islands. A very fine collection of stereopticon pictures, which he took himself, were on display for the enjoyment of visitors to the exhibit, with a stereopticon.

Henry G. Bieler, M.D.

Doctor Bieler is an artist in modeling and sculpturing. His pieces, modeled in wood, are of exceptional interest.

Louis K. Guggenheim, M.D.

Landscapes in oil. More of Doctor Guggenheim's work would have been welcome. One study in particular shows a very fine appreciation of the value of color.

Robert A. Campbell, M.D.

Wood working is shown to be truly an art in the display of Doctor Campbell. Various types of beautiful woods have been carved into beautiful things from the turning lathe of this member.

Edward L. Sudlow, M.D.

Doctor Sudlow's display—just a few old books—but what books! Every older visitor to the exhibit stopped at that display. A collection of McGuffey's Readers. Some of you may remember the first reader. It starts off with a picture of a dog: "The Dog, The Dog ran."

Frank B. Young, M.D.

An exhibit of comparative pathologic and physiologic osseous conditions. This display is of exceptional interest to the scientifically minded.

John W. Nevius, M.D.

An unusual and beautiful book, containing tuberculosis stamps collected from all parts of the world.

THE PRACTICE OF MEDICAL SPECIALTIES IN HOSPITALS*

A Report to the Medical Problems Group of the San Francisco Medical Society

The problem of the proper ethical and legal relationship between hospitals and certain medical specialties has been a vexatious one. It was left largely to individual action until recently, when the question of organized medicine approving the various relations was forced by the many schemes for hospital insurance. It has been argued that the specialists involved should not use the lever of the recognition of hospital insurance schemes as a means of solving their problems. That would certainly be true were it not for the fact that organized medicine is being asked for the first time to officially approve of certain practices which are probably both illegal and unethical. The fundamental problem has no connection with insurance, but concerns the legal and ethical aspects of the practice of certain medical specialties in hospitals.

CORPORATIONS AND MEDICAL PRACTICE

Let us first consider the legal aspects of the problem. There have been definite legal decisions regarding the right of corporations to practice medicine. The most recent one is that involving the Pacific Employers' Insurance Company. In that decision the court held that the company could not circumvent the law by employing licensed physicians to practice for it. A similar decision was that in the case of *People vs. United Medical Service,*

* This report was made by a committee consisting of Robert Stone, M.D., Randolph G. Flood, M.D., Emery M. Seeburt, M.D., Leon O. Parker, M.D., president of the Medical Problems Group, and Frank Hand, M.D., secretary of Medical Problems Group, and submitted for publication by the committee.

Inc., N. E. 157, which the Supreme Court of Illinois handed down on February 14, 1936. The court, in unmistakable language, proscribed corporations from practicing medicine even though they attempt to do so through the medium of salaried employees who are licensed physicians. The Supreme Court of the State of California has said: "That a corporation may not practice law, medicine, or dentistry, is a settled question in California." (*Parker vs. Board of Dental Examiners*, 216 Cal. 285, 14 P. (2d) 67.)

RADIOLOGY

That the practice of radiology is the practice of medicine is also a settled question. The House of Delegates of the California Medical Association in May, 1936, adopted a resolution reading in part:

Resolved, That radiology and pathology, being in all of their several parts and subdivisions the practice of medicine, etc.

The House of Delegates of the American Medical Association in May, 1936, adopted a committee report containing the following:

It reiterates the principle enunciated by the House of Delegates at Cleveland in 1934, "That the practice of radiology, whether for diagnostic or therapeutic purposes, constitutes in fact the practice of medicine." The action of the House of Delegates in 1925, establishing a section on radiology, confirms this principle.

Since radiology is the practice of medicine, it is illegal for hospitals to engage in the practice of it. However, some hospital administrators maintain that they are not practicing medicine when they manage only the business side and arrange with a licensed physician to provide the professional services. Let us look carefully into this contention. The practice of medicine is a contract between a patient who needs medical services and a doctor who can render it. Because that service is a personal as well as a professional one, the laws of various states have decreed that no person or corporation may come between the doctor and his patient. If the patient pays his money to the hospital, the contract is between the patient and the hospital, the latter agreeing to furnish the radiologist's service. The hospital is entering as a third party. The physician owes his allegiance to the hospital which employs him, and he can owe but a secondary and divided loyalty to the patient.

Very definite legal opinion is available on this subject. The Supreme Court of the State of California, in the case of *Painless Parker vs. Board of Dental Examiners*, made the following comments in answer to the contention that there is a distinction between the practice of dentistry and the purely business side of the practice:

The law does not assume to divide the practice of dentistry into that kind of departments. Either one may extend into the domain of the other in respects that would make such a division impractical if not impossible. The subject is treated as a whole. If the contention of appellant be sound, then the proprietor of the business may be guilty of gross misconduct in its management and violate all standards which a licensed dentist would be required to respect and stand immune from any regulatory supervision whatsoever. His employee, the licensed dentist, would also be immune from discipline upon the ground that he was but a mere employee and was not responsible for his employer's misconduct, whether the employer be a corporation or a natural person. On grounds of public policy such a condition could not be countenanced.

No one would dispute the right of any person to own a dental office equipment. The question most appropriate here is whether the thing owned is used for a given purpose by a person lawfully entitled to so use it. Ownership is not the absolute test of the right of use.

The court went on to say that if Parker's contention is sound, the Dental Practice Act is impotent to accomplish the purpose it was intended to serve, namely, to promote the safety, health, and welfare of the people of the State.

The legal side of the issue can be righted only by one method. The physician who provides the medical service must make the contract with the patient, and must collect the fee in such a way that the patient knows he is paying that physician.

REIMBURSEMENT TO THE HOSPITAL

Such being the case, how is the hospital to be reimbursed for the use of its space, equipment, materials,